

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PULMONETIC SYSTEMS, INC.)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 06-564 (JJF)
)	
VERSAMED MEDICAL SYSTEMS, INC.)	
)	
Defendant.)	

**DEFENDANT VERSAMED MEDICAL SYSTEMS, INC.'S
MOTION TO DISMISS THE COMPLAINT OR, IN THE
ALTERNATIVE, TO STAY PROCEEDINGS PENDING ARBITRATION**

Pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, Defendant Versamed Medical Systems, Inc. ("Versamed") respectfully moves to dismiss the Complaint of plaintiff Pulmonetic Systems, Inc. for lack of subject matter jurisdiction because the parties agreed to arbitrate such claims in their 2005 Settlement Agreement. In the alternative, the Court should stay these proceedings pending the required arbitration. The grounds for this motion are set forth in Versamed's opening brief, filed herewith.

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February 5, 2007
726062.1

CERTIFICATE OF SERVICE

I, Karen Jacobs Loudon, hereby certify that on February 5, 2007, I electronically filed the foregoing with the Clerk of the Court using CM/ECF, which will send notification of such filing(s) to the following:

Steven J. Balick
Tiffany Geyer Lydon
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I also certify that copies were caused to be served on February 5, 2007 upon the following in the manner indicated:

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